

ORIGINAL

DOCKET FILE COPY ORIGINAL

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 20 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	CC Docket No. 96-98
Public Utilities Commission of Ohio)	NSD File No. L-99-74
Petition for Delegation of Additional)	DA 99-1894
Authority to Implement Number)	
Conservation Measures)	

COMMENTS OF AT&T CORP.

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp.

("AT&T") hereby submits its comments on the Public Utilities Commission of Ohio's ("PUCO") petition for additional authority to implement number conservation measures ("Petition").¹

Ten state commissions have now filed petitions² seeking a broad delegation of power

¹ Public Utilities Commission of Ohio Petition Delegation of Additional Authority To Implement Number Conservation Measures, NSD File No. L-99-74, filed September 13, 1999 ("Petition").

² In addition to the PUCO petition, petitions have been filed by state commissions from Connecticut, Texas, California, Florida, Maine, Massachusetts, New Hampshire, New York and Wisconsin. See New Hampshire Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Optimization Measures In The 603 Area Code, NSD File No. L-99-71, filed September 15, 1999; Public Service Commission of Wisconsin Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-64, filed August 5, 1999; Connecticut Department of Public Utility Control Petition for Delegation of Additional Authority, NSD File No. L-99-62, filed July 28, 1999; Petition of the Public Utility Commission of Texas for Expedited Decision for Delegation of Authority to Implement Number Conservation Measures, NSD File No. L-99-55, filed July 2, 1999; Petition of the California Public Utilities Commission and of the People of the State of California for Delegation of Additional Authority, NSD File No. L-98-136, filed April 23, 1999; Florida Public Service Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-33, filed April 2, 1999; Maine Public Utilities Commission Petition for Additional Authority to Implement

(footnote continued on next page)

Rec'd of Copies rec'd 07-1
List ABCDE

over number administration pursuant to the Commission's recent Pennsylvania Order.³ On September 15, 1999, the Commission granted in part waiver requests by the state commissions for California, Florida, Massachusetts and New York that sought authority that was substantively identical in large measure to that the PUCO seeks here. Two weeks later, the Commission granted the Maine commission -- which sought relief from the alleged burdens of NPA proliferation in a state that has only one area code -- authority essentially identical to that granted in the September 15th waivers.

Because the many state commission numbering petitions filed to date largely seek the same relief and raise substantively identical claims, AT&T will not burden the record by repeating the arguments it has offered in response to those previous waiver requests, but instead hereby incorporates into these comments by reference its prior pleadings concerning each of the state petitions, including those seeking to impose technology-specific overlays. In addition,

(footnote continued from previous page)

Number Conservation Measures, NSD File No. L-99-27, filed March 17, 1999; Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, NSD File No. L-99-19, filed February 17, 1999; New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-21, filed February 19, 1999.

³ In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998) ("Pennsylvania Order").

AT&T hereby incorporates into this pleading by reference its pleadings addressing the Commission's recent Numbering Resource Optimization NPRM.⁴

The five state numbering petitions granted to date strongly suggest that the Commission is prepared to grant to any state that requests it authority that, by the Commission's own admission, "goes beyond the parameters outlined in the [Pennsylvania Order]."⁵ For example, the Commission based its grant of additional authority to the Maine commission on the fact that the 207 NPA was nearing exhaust "despite the existence of a high number of unused numbers in this code."⁶ The Commission has long recognized, however, that because the current numbering system requires the assignment of numbers in blocks of 10,000, and requires wireline carriers to obtain an NXX code in every rate center they wish to serve (there are over 220 rate centers in Maine's single area code), CLECs will almost inevitably have a relatively large proportion of "unused numbers" when they enter the market.⁷

The rationale underlying the waiver granted to the Maine commission thus potentially applies with equal force to virtually every NPA. Moreover, because no state numbering petition

⁴ Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, released June 2, 1999 ("NRO NPRM").

⁵ E.g., Order, Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, CC Docket No. 96-98, NSD File No. L-99-19, ¶ 6, released September 15, 1999.

⁶ Order, Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-27, ¶ 5, released September 28, 1999.

⁷ See, e.g., NRO NPRM, ¶ 20.

filed to date provides information as to how the petitioning state commission proposes to implement programs such as number pooling or number reclamation, the potential for widely varying standards -- or even outright conflicts among the states -- is high.⁸ In effect, the Commission appears to have modified its longstanding numbering rules and policies without adequate prior notice, and without offering an adequate explanation for abandoning its previous conclusion that permitting state commissions to proceed with numbering administration measures "on a piecemeal basis" could "jeopardiz[e] telecommunications services throughout the country."⁹

AT&T already has begun to work with the state commissions that have obtained numbering waivers, and intends to continue to cooperate fully in their efforts to implement thousands block pooling and the other measures the Commission recently authorized. AT&T also intends to participate in similar efforts by other state commissions that may obtain grants of numbering authority. Nevertheless, AT&T continues to urge the Commission to move forward promptly with the adoption of national conservation standards, and to limit the number of states

⁸ For example, while the Commission's state numbering waiver orders urge state commissions to adhere to "industry adopted thousands-block pooling guidelines," it permits them to modify those guidelines after "consult[ing] with the industry." E.g., Order, Petition of the California Public Utilities Commission for Delegation of Additional Authority, CC Docket No. 96-98, NSD File No. L-98-136, ¶ 14, released September 15, 1999 ("California Waiver Order"). Other aspects of the numbering waivers granted to date are similarly unclear as to precisely what constraints the Commission imposed on state commissions' discretion to adopt state-specific numbering requirements.

⁹ Pennsylvania Order at 19022 ¶ 21. As AT&T has stated previously, it does not contend that state commissions are incapable of crafting workable numbering policies, but rather that the decisions of dozens of autonomous regulatory bodies will inevitably diverge from -- and even directly conflict with -- one another.

to which it grants numbering waivers. As the state commissions' seriatim requests for delegated authority make clear, the circumstances prompting the instant petition are not unique to any one state, or even to a small group of states, but are national issues for which national solutions are essential. If the Commission were to grant authority over number conservation to each state that has requested (or that is likely to request) that power, the integrity of the NANP could be threatened by a myriad of competing and conflicting standards, and the timeline for implementing national number optimization policies would be significantly lengthened because carriers would be forced to devote their limited resources to developing and implementing multiple state trials.¹⁰

In addition to seeking authority to impose certain measures permitted by the Commission's previous numbering waivers, the PUCO requests the power to implement a technology-specific NPA overlay. The sole evidence the Petition presents to support this request is a survey of end-users that purports to find majority support for wireless-only overlays. The PUCO's survey, however, merely asked respondents whether it would "be acceptable for all wireless numbers (e.g., pagers, cellular phones, or PCS phones) to have an area code that is different from that of landline phones."¹¹ The PUCO did not ask respondents whether they would object to wireless "take-backs," which would require all users of wireless phones to bring

¹⁰ Although the numbering waivers granted to date express the Commission's willingness to ensure that state commissions adhere to the "competitive neutrality" requirement and other provisions of its rules, the reality is that carriers seeking to compete in rapidly changing telecommunications markets can ill afford the delay and uncertainty that inevitably result from disputes over varying state-created numbering policies.

¹¹ E.g., Petition, Attachment, p. 5.

them to central locations for time-consuming re-programming. The PUCO also fails to address in any fashion -- much less to refute -- the many other arguments that have already been placed in the record of the Commission's ongoing proceedings concerning technology-specific overlays.¹²

Finally, it is imperative that the Commission make clear in any order delegating authority over numbering that a state may not refuse to implement needed NPA relief while it undergoes preparations for number conservation measures that it hopes may eventually permit it to extend the life of NPAs. Despite the Commission's explicit warning that the numbering waivers it has granted to date "are not intended to allow [state commissions] to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief,"¹³ some states already have suggested that they intend to utilize rationing to artificially extend the life of existing NPAs while they prepare for pooling or other measures. Indeed, the instant petition seeks open-ended power to impose rationing "in an attempt to help delay the need for area code relief."¹⁴ Such authority would directly contravene not only the numbering waivers granted to date, but virtually the Commission's entire numbering jurisprudence by permitting the

¹² See Reply Comments of AT&T Corp., filed August 30, 1999, pp. 43-47 and Comments of AT&T Corp., filed July 30, 1999, pp. 67-69 in NRO NPRM; Comments of AT&T Corp., filed June 14, 1999 in California Public Utilities Commission Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code, NSD 99-36; Comments of AT&T Corp., filed April 5, 1999, pp. 67-69 in Petition of the Massachusetts Department of Telecommunications and Energy for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes, NSD-L-99-17.

¹³ E.g., California Waiver Order, ¶ 9.

¹⁴ Petition, p. 6.

states to use rationing in lieu of NPA relief -- thereby denying carriers the ability to obtain the numbers that are indispensable in providing telecommunications services to end users. Although the Commission's prior waiver decisions admonished that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources,"¹⁵ there is a real and present danger that that situation will occur.¹⁶ In any subsequent numbering waiver that it may grant, the Commission should clarify that it does not -- and did not previously -- intend to permit state commissions to deny numbering resources to carriers during any interim period while a state prepares to implement optimization measures.

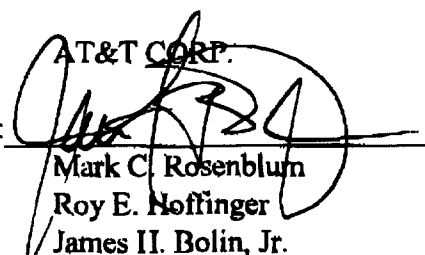
¹⁵ E.g., California Waiver Order, ¶ 9.

¹⁶ See generally Letter from Tina S. Pyle, MediaOne Group, Inc., to Yog R. Varma, Deputy Bureau Chief, Common Carrier Bureau, Federal Communications Commission (September 29, 1999) (documenting MediaOne's inability to obtain numbering resources necessary to provide residential wireline telephone service to "over 290,000 additional households").

CONCLUSION

AT&T urges the Commission to establish national conservation standards as expeditiously as possible to provide necessary relief to all states, carriers, and consumers on an equitable basis; and to act on the instant petition in a manner consistent with AT&T's comments and reply comments concerning prior state commission numbering waiver requests and the NRO NPRM.

Respectfully submitted,

By:  AT&T CORP.
Mark C. Rosenblum
Roy E. Noffinger
James H. Bolin, Jr.
295 North Maple Avenue, Room 1130M1
Basking Ridge, NJ 07920
(908) 221-4617

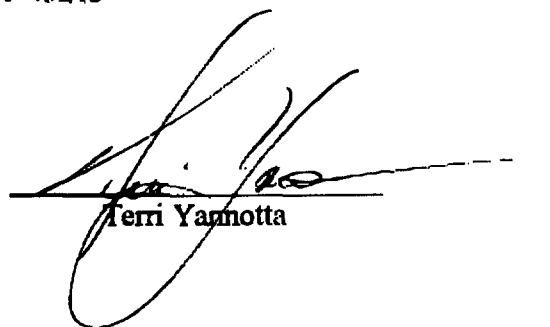
Douglas I. Brandon
Vice President - External Affairs
1150 Connecticut Avenue, N.W., Suite 400
Washington, DC 20036
(202) 223-9222

October 20, 1999

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 20th day of October, 1999, a copy of the foregoing "Comments of AT&T Corp." was filed by U.S. first-class mail, postage prepaid to the party listed below:

Robert A. Abrams
Jodi J. Bair
Assistant Attorneys General
Public Utilities Section
180 E. Broad Street, 7th Floor
Columbus, OH 43215



Terri Yannotta

October 20, 1999